



April 7, 2009

ENGROSSED SENATE BILL No. 300

DIGEST OF SB 300 (Updated April 2, 2009 10:29 am - DI 75)

Citations Affected: IC 8-1; noncode.

Synopsis: Net metering; renewable energy. Requires the utility regulatory commission (IURC) to adopt emergency rules amending the IURC's net metering and interconnection rules for electric utilities. Provides that the amended rules must: (1) make net metering available to certain specified customer classes; (2) allow a net metering customer to interconnect a generating facility with a nameplate capacity of one megawatt or less to the distribution facility of an electric utility; and (3) allow a net metering customer to interconnect a generating facility that makes use of certain specified technologies. Provides that the existing rules are void to the extent they do not comply with the requirements for the amended rules. Provides that the amended rules do not apply to rural electric membership corporations. Requires the IURC to report to the regulatory flexibility committee on the IURC's progress in adopting the amended rules. Requires an electricity supplier to supply a certain percentage of its total electricity supply from renewable energy resources. Requires the IURC to report to the regulatory flexibility committee on industry compliance with the renewable energy standard.

Effective: Upon passage.

**Merritt, Stutzman, Errington,
Leising, Kruse**

(HOUSE SPONSOR — MOSES)

January 7, 2009, read first time and referred to Committee on Rules and Legislative Procedure.

January 20, 2009, amended; reassigned to Committee on Utilities and Technology.

February 9, 2009, reported favorably — Do Pass.

February 12, 2009, read second time, ordered engrossed.

February 13, 2009, engrossed.

February 16, 2009, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 2, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

April 7, 2009, amended, reported — Do Pass.

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ES 300—LS 6552/DI 13+



April 7, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 300

A BILL FOR AN ACT to amend the Indiana Code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 35. Renewable Energy Development**

5 **Sec. 1.** As used in this chapter, "electricity supplier" means a
6 public utility (as defined in IC 8-1-2-1) that furnishes retail electric
7 service to the public. The term does not include a public utility that
8 is:

- 9 (1) a corporation organized under IC 8-1-13;
10 (2) a corporation organized under IC 23-17 that is an electric
11 cooperative and that has at least one (1) member that is a
12 corporation organized under IC 8-1-13; or
13 (3) a municipally owned utility (as defined in IC 8-1-2-1(h)).

14 **Sec. 2.** As used in this chapter, "energy efficiency measures"
15 means:

- 16 (1) the use of a device, method, or project implemented by an
17 electricity consumer that reduces electrical energy usage; or

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(2) improvements that:

(A) increase the efficiency of transmission and distribution systems used to transmit electricity from the source to the end user; and

(B) reduce the loss of electricity during transmission.

Sec. 3. As used in this chapter, "renewable energy credit", or "REC", means a tradable commodity equivalent to one (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility.

Sec. 4. (a) As used in this chapter, "renewable energy resources" includes the following sources for the production of electricity:

(1) Solar.

(2) Wind.

(3) Microhydroelectrical facilities.

(4) Microturbines using renewable fuels, as determined by the commission.

(5) Fuel cells using renewable fuels, as determined by the commission.

(6) Dedicated crops grown for energy production.

(7) Methane from anaerobic digestion and municipal solid waste.

(8) Agricultural crop waste.

(9) Energy efficiency measures installed after January 1, 2009.

(10) Electricity generated through net metering.

(b) Except as provided in subsection (a)(7) and (a)(8), the term does not include energy from the incineration, burning, or heating of garbage or waste.

Sec. 5. Each electricity supplier shall supply electricity generated or reduced by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

(1) Not later than December 31, 2015, at least five percent (5%).

(2) Not later than December 31, 2020, at least ten percent (10%).

(3) Not later than December 31, 2025, at least fifteen percent (15%).

For purposes of this section, electricity is measured in megawatt hours.

Sec. 6. (a) An electricity supplier may use a renewable energy resource described in section 4(a)(9) of this chapter to generate not

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more than thirty percent (30%) of the electricity that the electricity supplier is required to supply under section 5 of this chapter.

(b) An electricity supplier may own, generate, purchase, or trade RECs to comply with section 5 of this chapter.

(c) The commission shall determine and impose penalties for an electricity supplier that fails to comply with section 5 of this chapter.

Sec. 7. (a) An electricity supplier is not required to comply with section 5 of this chapter if the commission determines that events beyond the reasonable control of the electricity supplier prevent it from meeting its renewable energy resources or REC requirements.

(b) The commission shall conduct a public hearing before making a determination under subsection (a).

(c) The commission shall review a determination made under subsection (a) not more than six (6) months after the date on which the determination is made. Upon its review, the commission may:

(1) allow its determination to remain in effect; or

(2) require the electricity supplier to comply with section 5 of this chapter.

If the commission allows its determination to remain in effect, it shall review the determination not more than six (6) months after the date of the most recent review.

Sec. 8. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 5 of this chapter, the following apply:

(1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 4(a)(1), 4(a)(7), or 4(a)(10) of this chapter that originates in Indiana equals two (2) RECs.

(3) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 4(a)(6) or 4(a)(8) of this chapter that originates in Indiana equals one and two-tenths (1.2) RECs.

(b) An REC calculated under this section shall be increased as follows:

(1) An REC that is:

(A) generated and made available during periods of peak demand; or

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(B) stored and made available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(2) An REC that is:

(A) generated during periods of nonpeak demand; and

(B) stored and made available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(3) An REC that is generated using equipment made in Indiana, as determined by the commission, is increased by one-tenth (0.1) REC.

(4) An REC that is generated in a facility constructed by Indiana workers, as determined by the commission, is increased by one-tenth (0.1) REC.

Sec. 9. Not later than March 1, 2011, and each year thereafter, a utility shall file with the commission a report of the utility's compliance with this chapter for the preceding calendar year.

Sec. 10. (a) The commission shall allow an electricity supplier to recover the following costs under the schedule set forth in subsection (b):

(1) Reasonable and necessary costs incurred in:

(A) constructing, operating, or maintaining facilities to comply with this chapter; or

(B) generating electricity from, or purchasing electricity generated from, a renewable energy resource; by a periodic rate adjustment mechanism.

(2) Up to one million dollars (\$1,000,000) each year for expenditures related to alternative or renewable energy research that is conducted in Indiana.

(b) The commission shall limit the total increase per customer account per billing cycle for costs recovered under subsection (a) to one percent (1%) of a customer's overall electric bill.

Sec. 11. The commission shall adopt rules under IC 4-22-2 to implement this chapter, including rules to establish a program for the certification and trading of RECs to comply with section 5 of this chapter.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Subject to subsections (c) and (d) and not later than July 1, 2009, the commission shall adopt rules to amend the net metering and interconnection rules adopted by the commission and codified

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at 170 IAC 4-4.2. The commission shall adopt the rules required by this subsection in the same manner as emergency rules are adopted under IC 4-22-2-37.1. The rules adopted by the commission under this subsection must do the following:

(1) Require an electric utility to offer net metering to at least the following customer classes:

(A) Residential customers.

(B) Commercial customers.

(C) Industrial customers.

(D) Agricultural customers.

(E) Local governments.

(F) The state.

(G) Kindergarten through grade 12 schools.

(H) Postsecondary educational institutions (as described in IC 6-3-3-5).

(2) Allow a net metering customer to interconnect a generating facility with a nameplate capacity of one (1) megawatt or less to a distribution facility of an electric utility.

(3) Allow a net metering customer to interconnect a facility that generates electricity through any of the following technologies:

(A) Solar.

(B) Wind.

(C) Microhydroelectrical facilities.

(D) Microturbines using renewable fuels.

(E) Fuel cells using renewable fuels.

(F) Biogas, including anaerobic digestion.

(G) Methane gas from landfills.

(c) Rules adopted under subsection (b) expire on:

(1) the date the commission adopts rules under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2011;

whichever is earlier.

(d) Not later than June 1, 2009, the commission shall evaluate the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2 for compliance with the requirements set forth in subsection (b). A rule that:

(1) is adopted by the commission and codified at 170 IAC 4-4.2; and

(2) does not meet the requirements set forth in subsection (b); is void. Not later than June 15, 2009, the commission shall notify the publisher of the Indiana Administrative Code and Indiana

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1 Register of any rules codified at 170 IAC 4-4.2 that are void under
 2 this subsection. The publisher shall remove the rules that are void
 3 under this subsection from the Indiana Administrative Code.

4 (e) Not later than November 1, 2009, the commission shall
 5 report to the regulatory flexibility committee established by
 6 IC 8-1-2.6-4 on the commission's progress under subsection (c)(1)
 7 in finally adopting, under IC 4-22-2-24 through IC 4-22-2-36, the
 8 emergency rules initially adopted by the commission under
 9 subsection (b).

10 (f) For purposes of subsection (b)(1), "electric utility" does not
 11 include the following:

12 (1) A corporation organized under IC 8-1-13.

13 (2) A corporation organized under IC 23-17-1 that is an
 14 electric cooperative and that has at least one (1) member that
 15 is a corporation organized under IC 8-1-13.

16 (g) This SECTION expires January 1, 2011.

17 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Not later than
 18 April 1, 2014, the Indiana utility regulatory commission shall
 19 submit a report in an electronic format under IC 5-14-6 to the
 20 general assembly. A report submitted under this SECTION must
 21 include:

22 (1) an analysis of; and

23 (2) any legislative proposals the commission believes would
 24 increase;

25 the effectiveness of and industry compliance with IC 8-1-35, as
 26 added by this act.

27 (b) This SECTION expires April 2, 2014.

28 SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 300, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

(Reference is to SB 300 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 300, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 300 as printed January 21, 2009.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 300, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
"SECTION 1. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 35. Renewable Energy Development

Sec. 1. As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public. The term does not include a public utility that is:

- (1) a corporation organized under IC 8-1-13;
- (2) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13; or
- (3) a municipally owned utility (as defined in IC 8-1-2-1(h)).

Sec. 2. As used in this chapter, "energy efficiency measures" means:

- (1) the use of a device, method, or project implemented by an electricity consumer that reduces electrical energy usage; or
- (2) improvements that:
 - (A) increase the efficiency of transmission and distribution systems used to transmit electricity from the source to the end user; and
 - (B) reduce the loss of electricity during transmission.

Sec. 3. As used in this chapter, "renewable energy credit", or "REC", means a tradable commodity equivalent to one (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility.

Sec. 4. (a) As used in this chapter, "renewable energy resources" includes the following sources for the production of electricity:

- (1) Solar.
- (2) Wind.
- (3) Microhydroelectrical facilities.
- (4) Microturbines using renewable fuels, as determined by the commission.
- (5) Fuel cells using renewable fuels, as determined by the commission.
- (6) Dedicated crops grown for energy production.
- (7) Methane from anaerobic digestion and municipal solid waste.
- (8) Agricultural crop waste.
- (9) Energy efficiency measures installed after January 1, 2009.
- (10) Electricity generated through net metering.

(b) Except as provided in subsection (a)(7) and (a)(8), the term

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does not include energy from the incineration, burning, or heating of garbage or waste.

Sec. 5. Each electricity supplier shall supply electricity generated or reduced by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

- (1) Not later than December 31, 2015, at least five percent (5%).
- (2) Not later than December 31, 2020, at least ten percent (10%).
- (3) Not later than December 31, 2025, at least fifteen percent (15%).

For purposes of this section, electricity is measured in megawatt hours.

Sec. 6. (a) An electricity supplier may use a renewable energy resource described in section 4(a)(9) of this chapter to generate not more than thirty percent (30%) of the electricity that the electricity supplier is required to supply under section 5 of this chapter.

(b) An electricity supplier may own, generate, purchase, or trade RECs to comply with section 5 of this chapter.

(c) The commission shall determine and impose penalties for an electricity supplier that fails to comply with section 5 of this chapter.

Sec. 7. (a) An electricity supplier is not required to comply with section 5 of this chapter if the commission determines that events beyond the reasonable control of the electricity supplier prevent it from meeting its renewable energy resources or REC requirements.

(b) The commission shall conduct a public hearing before making a determination under subsection (a).

(c) The commission shall review a determination made under subsection (a) not more than six (6) months after the date on which the determination is made. Upon its review, the commission may:

- (1) allow its determination to remain in effect; or
- (2) require the electricity supplier to comply with section 5 of this chapter.

If the commission allows its determination to remain in effect, it shall review the determination not more than six (6) months after the date of the most recent review.

Sec. 8. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 5 of this chapter, the following apply:

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(1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 4(a)(1), 4(a)(7), or 4(a)(10) of this chapter that originates in Indiana equals two (2) RECs.

(3) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 4(a)(6) or 4(a)(8) of this chapter that originates in Indiana equals one and two-tenths (1.2) RECs.

(b) An REC calculated under this section shall be increased as follows:

(1) An REC that is:

(A) generated and made available during periods of peak demand; or

(B) stored and made available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(2) An REC that is:

(A) generated during periods of nonpeak demand; and

(B) stored and made available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(3) An REC that is generated using equipment made in Indiana, as determined by the commission, is increased by one-tenth (0.1) REC.

(4) An REC that is generated in a facility constructed by Indiana workers, as determined by the commission, is increased by one-tenth (0.1) REC.

Sec. 9. Not later than March 1, 2011, and each year thereafter, a utility shall file with the commission a report of the utility's compliance with this chapter for the preceding calendar year.

Sec. 10. (a) The commission shall allow an electricity supplier to recover the following costs under the schedule set forth in subsection (b):

(1) Reasonable and necessary costs incurred in:

(A) constructing, operating, or maintaining facilities to comply with this chapter; or

(B) generating electricity from, or purchasing electricity generated from, a renewable energy resource;

by a periodic rate adjustment mechanism.

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(2) Up to one million dollars (\$1,000,000) each year for expenditures related to alternative or renewable energy research that is conducted in Indiana.

(b) The commission shall limit the total increase per customer account per billing cycle for costs recovered under subsection (a) to one percent (1%) of a customer's overall electric bill.

Sec. 11. The commission shall adopt rules under IC 4-22-2 to implement this chapter, including rules to establish a program for the certification and trading of RECs to comply with section 5 of this chapter.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Subject to subsections (c) and (d) and not later than July 1, 2009, the commission shall adopt rules to amend the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2. The commission shall adopt the rules required by this subsection in the same manner as emergency rules are adopted under IC 4-22-2-37.1. The rules adopted by the commission under this subsection must do the following:

(1) Require an electric utility to offer net metering to at least the following customer classes:

- (A) Residential customers.
- (B) Commercial customers.
- (C) Industrial customers.
- (D) Agricultural customers.
- (E) Local governments.
- (F) The state.
- (G) Kindergarten through grade 12 schools.
- (H) Postsecondary educational institutions (as described in IC 6-3-3-5).

(2) Allow a net metering customer to interconnect a generating facility with a nameplate capacity of one (1) megawatt or less to a distribution facility of an electric utility.

(3) Allow a net metering customer to interconnect a facility that generates electricity through any of the following technologies:

- (A) Solar.
- (B) Wind.
- (C) Microhydroelectrical facilities.
- (D) Microturbines using renewable fuels.
- (E) Fuel cells using renewable fuels.

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(F) Biogas, including anaerobic digestion.

(G) Methane gas from landfills.

(c) Rules adopted under subsection (b) expire on:

(1) the date the commission adopts rules under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2011;

whichever is earlier."

Delete page 2.

Page 3, delete lines 1 through 26, begin a new paragraph and insert:

"(d) Not later than June 1, 2009, the commission shall evaluate the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2 for compliance with the requirements set forth in subsection (b). A rule that:"

Page 3, line 27, after "(1)" insert "is".

Page 3, line 29, delete "contrary to this chapter;" and insert **"does not meet the requirements set forth in subsection (b);"**.

Page 3, line 30, after "void." insert **"Not later than June 15, 2009, the commission shall notify the publisher of the Indiana Administrative Code and Indiana Register of any rules codified at 170 IAC 4-4.2 that are void under this subsection. The publisher shall remove the rules that are void under this subsection from the Indiana Administrative Code.**

(e) Not later than November 1, 2009, the commission shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the commission's progress under subsection (c)(1) in finally adopting, under IC 4-22-2-24 through IC 4-22-2-36, the emergency rules initially adopted by the commission under subsection (b).

(f) For purposes of subsection (b)(1), "electric utility" does not include the following:

(1) A corporation organized under IC 8-1-13.

(2) A corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

(g) This SECTION expires January 1, 2011.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Not later than April 1, 2014, the Indiana utility regulatory commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this SECTION must include:

(1) an analysis of; and

(2) any legislative proposals the commission believes would

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increase;
the effectiveness of and industry compliance with IC 8-1-35, as
added by this act.

(b) This SECTION expires April 2, 2014.

SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 300 as printed February 10, 2009.)

MOSES, Chair

Committee Vote: yeas 7, nays 5.

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